GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Ch.Samba Murthy, S/o Ch. Appayya, Kurupam Mandal, Vizianagaram District, against the proceedings No.(M) R.Dis.No.813/2007-C5, dated 21.07.2008 of the District Collector, Vizianagaram, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE(TW.CV.2) DEPARTMENT

G.O.MS.No. 119 Dated: 02-08-2018
Read the following:

1. Proceedings of the District Collector, Vizianagaram, Lr.No.(M) R. Dis. No.813/2007-C5, dt:21.07.2008.
2. Appeal Petition filed Sri Ch. Samba Murthy S/o Ch. Appayya, Seethamapeta, Kurupam Mandal, Vizianagaram before the Minister(TW), dated 06.09.2008.
3. Govt. Memo. No.7805/CV.2/2008, dated: 22.10.2008.
4. Order of the Hon'ble High Court of A.P., Hyderabad in W.P.No.20312/2008, dated 17.09.2008 filed by Sri Ch.Samba Murthy.
5. Order of the Hon'ble High Court of A.P., Hyderabad in W.P.No. 24115/2008, dated 03.12.2008 filed by Sri Ch.Samba Murthy.
6. From the District Collector, Vizianagaram, Lr.No.(M) Rc.No.729/08/C5, dated:18.12.2008.
7. Govt. Letter No. 7805/CV.2/2008, dated: 20.01.2009 & 10.06.2010.
8. Govt. Memo. No.7805/CV.2/2008,dated:26.08.2015, 01.05.2018 & 05.06.2018.

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ORDER:

In the reference 1st read above, the District Collector, Vizianagaram has issued orders cancelling ST-Jatapu caste certificate obtained from the then Mandal Revenue Officer, Kurupam Mandal in the year 1987 by Sri Ch.Samba Murthy, S/o Ch. Appayya.

2. In the reference 2nd read above, Sri Ch.Samba Murthy, S/o Ch. Appayya, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Vizianagaram. After examining the said Appeal Petition, Government have admitted the Appeal Petition & stay rejected by the Government and called for the parawise remarks and connected records from the District Collector, Vizianagaram in the reference 3rd read above.

3. In the reference 4th read above, Sri Ch.Samba Murthy, S/o Ch. Appayya has filed W.P.No.20312/2008 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the Government for not passing any orders on the appeal dated 06.09.2008 filed by the appellant against the proceedings (M) R.Dis.No.813/2007-C5, dated 21.07.2008 of the District Collector, Vizianagaram. The Hon'ble High Court of Andhra Pradesh, Hyderabad, while disposing the said W.P. on 17.09.2008 has directed the Government to consider the appeal and pass appropriate orders, the proceedings issued by the District Collector shall remain in suspension till the conclusion of the appeal or till the disposal of the stay application filed by the petitioner, whichever is earlier.

4. In the reference 4th read above, Sri Ch.Samba Murthy, S/o Ch. Appayya has filed 24115/2008 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the Govt. Memo. No. 7805/CV.2/2008, dated: 22.10.2008, wherein the stay petition filed by the petitioner has been rejected by the Government. The Hon'ble High Court of Andhra Pradesh, Hyderabad, while disposing the said W.P. on 03.12.2008 has suspended the order passed by the District Collector dated 21.07.2008, pending disposal of the appeal and directed the Government to dispose of the appeal within a period of eight weeks from the date of receipt of the order. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through her Counsel the matter has been examined by the Appellate Authority.

5. In the reference 6th read above, the District Collector, Vizianagaram has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Ch.Samba Murthy, S/o Ch. Appayya.

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6. The said Appeal Petition has been posted for hearing on 29.01.2009, 25.06.2010, 19.09.2015, 19.05.2018 & finally on 23.06.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 7th & 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Appellate Authority has conducted hearing on the said appeal petition on 23.06.2018, but the appellant/ counsel for the appellant were not attended for the hearing/ no representation, in spite of notice served to the appellant.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram, dated 21.07.2008, the Appellate Authority is observed that:

I. The appellant in his grounds has stated that the appellant originally from Seethampeta village of Kurupam Mandal of Vizianagaram District and himself & his blood relations are still residing at Seethampeta village which is the Scheduled area. Further, he has stated that his parents were illiterates and Mandal Revenue Officer, Kurupam has issued ST-Jatapu caste certificate after through enquiry in the village and also the relations of the appellant. The District Collector has passed orders without considering the material available on record and without giving any opportunity to the appellant for adducing evidence to examine the witness on his behalf and he has failed to consider the G.O.Ms.No.371, S.W.(Employment & Welfare B2) Department, dt:13.04.1976.

II. The District Level Scrutiny Committee has observed that based on the submissions by oral and through statement by the petitioner that the appellant's father belongs to Uppara (BC) caste and his mother Smt. Latchnmma belongs to Jatapu (ST). The appellant has no relatives with Jatapu(ST) community people and not observing any traditions and customs of the Jatapu tribes also. The appellant has also not claimed the Jatapu (ST) status to his children. Therefore, it is clearly revealed that the appellant does not belongs to Jatapu (ST) caste. The Tahslidar, Kurupam has also opined that basing on the statements of the village elders and elder brother of the appellant, that the Jatapu(ST) caste obtained by the appellant was fraudulent one and requested to cancel the caste certificate. Further, the appellant hailed from Seethampeta(v) of Kurupam(M) which is scheduled area. But living in scheduled area is not a criteria/ qualification to get ST caste certificate, and the entries made in school records are not acceptable as the said entries were based on oral declaration given by the parent. Based on the recommendation of the DLSC the Collector & District Magistrate has issued final hearing notice dated 20.4.2008 to the petitioner with a direction to appear before the Collector& Dist. Magistrate on 02.05.2008, on that day the petitioner appeared before the Collector and made representations by oral and through statement. In his deposition before Collector has stated that his father originally belongs to Uppara(BC) and his mother Jatapu(ST) tribe. After perusing all the materialized papers available on records the Collector & District Magistrate has cancelled the appellant's ST-Jatapu caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case, the appellant not attended for the hearing and there is no representation from the appellant and proof of service of notice is filed indicating that the notice served on appellant by concerned official as such the date of hearing is aware by the appellant but he has not turned up and there is no representation on his behalf, on seeing the record the same is pending since several years as such no other way, therefore the appeal petition is finalized as he has not turned up, on merits in the absence of the appellant. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the contention of the appellant that his father belongs to Uppara (BC) by caste and mother belongs to Jatapu (ST) and he was given Jatapu (ST) caste certificate basing on his mother caste and he got employment on the strength of the same and there after he married one who belong to Uppara (BC) caste and blessed with two children and he has not claimed the Jatapu (ST) status for his children. It is observed that as seen from the record that he has no evidence to show that the individual belongs to Jatapu(ST) and further noticed that the individual has no relations with Jatapu (ST) community

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people and not observing any traditions and customs of the Jatapu tribes also and he has failed to produce any evidence even though his mother belongs to Jatapu caste and the tribal community accepted him. That as per the act that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. The appellant failed to produce any evidence to substantiate his contention that he belongs to Jatapu(ST).

V. Further it is observed that as per G.O.Ms.No.371 Employment and Social Welfare (B2) Department dated 13.04.1976 in Annexure-II at para 4 has stated that "in the case of marriage between a tribal with a non-tribal the main factor or consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the society then their children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, in the circumstances, he may be Scheduled Tribe woman may have children from marriage with a non- Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe community accept them and treat them as members of their own community. In the instant case, the appellant has not produced any relevant documents in-support her community claim and not brought up in the fold of the Scheduled Tribe community. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that there is no infirmity in the findings of the learned District Collector, Vizianagaram District.

8. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri Ch.Samba Murthy, S/o Ch. Appayya, does not deserve any interference. Hence, Proceedings of the District Collector, Vizianagaram issued vide (M) R. Dis. No. 813/2007-C5, dt: 21.07.2008, is hereby upheld and the Appeal Petition filed by Sri Ch.Samba Murthy, S/o Ch. Appayya, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Kurupam is deemed to be cancelled.

9. The District Collector, Vizianagaram is directed to take necessary consequential action in the matter.

10. The records (containing (M) R. Dis. No. 813/2007-C5, dt: 21.07.2008, pages CF: 1-65) received from the District Collector, Vizianagaram through in the reference 6th read above, are returned herewith in original to the District Collector, Vizianagaram and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Vizianagaram.
(with original records) (BY RPAD)

The Project Officer, ITDA, Parvathipuram.

Sri Ch. Samba Murthy S/o Ch. Appayya,
Seethamapeta (Village),
Kurupam Mandal, Vizianagaram.

Sri P. Durga Prasad, Advocate,
Plot No.10, S.R.K. Nagar, Risalagadda,
Golconda 'X' Roads, Musherabad,
Hyderabad.

The District Education Officer, Vizianagaram.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER